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REMARKS/ARGUMENTS

I. STATUS OF THE PENDING CLAIMS

Claims 10-29 are pending in the application. Claims 10-16, 19, 21, 22 and 25-29 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 6,460,140 to Schoch et al. ("Schoch"). Claims 17, 18, 20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Schoch in view of U.S. Patent Publication No. 2002/0129265 to Watanabe ("Watanabe"). Claims 10 and 25-28 have been amended to more particularly point out the claimed subject matter.

II. INFORMATION DISCLOSURE STATEMENT

Under separate cover, Applicants will be submitting a Supplemental Information Disclosure Statement.

III. REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 10-16, 19, 21, 22 and 25-29 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Schoch. Applicants respectfully submit that these rejections are traversed on the basis of the following arguments.

A rejection of the claims under 35 U.S.C. § 102(e) requires a showing that each and every claim limitation be identically disclosed in a single prior art reference, either expressly or under the principles of inherency. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). If even one claim limitation is not described in the reference, the claim is patentable over the reference.

Each of independent claims 10 and 25-28, as amended, are directed to limitations including: (i) accessing a unique hardware identification code from a computer-readable data medium associated with the computer system, the code *accessed from a portion of the data medium that is readable but not writeable*; and (ii) generating an identification number by means of an encoding algorithm, *wherein the encoding algorithm inputs comprise the hardware identification code and the license information*.

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As amended, independent claims 10 and 25-28 more particularly point out that the identification number is generated using an encoding algorithm that has as its inputs a hardware identification code and license information. In Schoch, however, "the license database generates a license key ... and encrypts it using the product verification encryption key." Nowhere does Schoch disclose an encoding algorithm that accepts as inputs (1) a hardware identification code, and (2) license information to generate an identification number.

The license key of Schoch is not generated by an encoding algorithm with a hardware identification code and license information as its inputs, as claimed in the application. Schoch purportedly relates to a license key that is generated after a separate registration key is verified. Moreover, Schoch merely states that the license key "consists of" a PID, an SID, and options. Nowhere does Schoch teach or suggest that the PID, SID, options or any other information serves as input for an encoding algorithm used to generate the license key.

In fact, Schoch does not even mention encoding. The Office Action again fails to appreciate the distinction between the creation of the identification number by means of an encoding algorithm, and the encryption of an already generated license key for ensuring secure online transmission. For example, the Office Action states, "Generating the identification number or the license key does includes a mean of encoding by encrypting. In either way of encoding or encrypting, the product of the encoding or encrypting process is a code (As defining in Dictionary)." (Final Office Action, p. 2). Schoch apparently implements encryption only after the license key is generated. As such, there is no "product" of encoding or encrypting as argued by the Office Action.

In addition, the Office Action fails to demonstrate that Schoch discloses the step of "having the unique hardware identification code accessed from a portion of the data medium that is readable but not writeable." As Applicants have previously argued, Schoch in fact does not disclose this limitation, but rather explicitly proffers the contrary scenario by permitting such a hardware identification number to "not change frequently." The Office Action appears to admit Schoch's deficiency in this regard by failing to cite any evidence in Schoch to defend the rejection. The only "evidence" presented by the Office Action is the Examiner's own belief that

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“[i]t would be defeating Schoch’s purpose if the unique [system ID] is in a readable/writeable area of the [hard drive].” (Final Office Action, p. 3).

For at least these reasons, claim 10, and claims 11-16, 19, 21 and 22 which depend from it, as well as claims 25-28, and claim 29, which depends from claim 28, are submitted to be in condition for allowance.

IV. REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 17, 18, 20, 23 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Schoch in view of Watanabe.

The Office Action fails to address Applicants’ previous § 103(a) arguments and simply recycles its prior rejections. Exactly as before, the Office Action rejects claims 23 and 24 on the basis that Watanabe allegedly discloses a method of checking license information prior to executing software. First, that claims 23 and 24 are separate claims illustrates the distinction between checking for unauthorized use *during startup* of the software component and checking for unauthorized use *periodically during use* of the software component. Second, the performance of a check *prior* to software execution cannot be said to disclose either the performance of a check *during startup of or periodically during use of* software. Therefore, claims 23 and 24 are respectfully submitted to be patentable over Schoch in view of Watanabe.

Moreover, claims 17, 18, 20, 23 and 24 all depend from claim 10. As discussed above, Schoch does not disclose all the limitations of claim 10. Because the Office Action does not cite Watanabe as disclosing, nor does Watanabe disclose, any of the limitations of claim 10, claims 17, 18, 20, 23 and 24, which depend from claim 10, are not unpatentable over Schoch in view of Watanabe.

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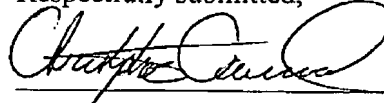
CONCLUSION

Claims 10-29 are pending in the application. Applicants submit that all of the pending claims, for the reasons set forth above, recite patentable subject matter and are in condition for allowance. Reconsideration and allowance are therefore respectfully requested.

The Commissioner is authorized to charge any required fee to Deposit Account No. 23-1703.

Dated: April 24, 2007

Respectfully submitted,



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